

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 521

Introduced by Assembly Members Hueso and Member Stone
(Principal coauthor: Senator Hueso)

February 20, 2013

~~An act relating to solid waste. An act to add Chapter 20.5 (commencing with Section 42985) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 521, as amended, Hueso Stone. ~~Solid waste: plastic. Recycling:~~ *marine plastic pollution.*

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

~~This bill would declare the intention of the Legislature to enact legislation that would create the Plastic Pollution Reduction Producer Responsibility Act to significantly reduce plastic pollution in the marine environment and require producers of those products to be financially responsible for this reduction.~~

This bill would require the department, by June 1, 2014, in coordination with the Ocean Protection Council and the State Water Resources Control Board, to adopt regulations to implement the bill. The department would be required, by July 1, 2014, in consultation with the council and the state water board, to adopt a list that specifies those items, or categories of items, that the department finds are the

major sources of marine plastic pollution and, therefore, would be a covered item for purposes of the bill.

The department would be required to notify the producer of a covered item, and no later than 6 months after receiving that notification, the producer of that covered item would be required to design and submit to the department a plan to reduce the producer's proportion of the marine plastic pollution caused by that covered item for review and approval by the department. The bill would require the plan to specify the measures to meet the marine plastic pollution reduction targets that the producer of the covered item would be required to achieve, as specified in the regulations. The department would be required to recover the cost of reviewing and approving the marine plastic pollution reduction plan by requiring the producer to pay a fee to the department, which the department would be required to set in an amount equivalent to the department's costs of implementing the bill. The bill would establish the Marine Plastic Pollution Prevention Subaccount in the Integrated Waste Management Fund, would require the department to deposit the fees into that subaccount, and would authorize the department to expend those fees, upon appropriation by the Legislature, to cover the department's costs to implement the bill.

The bill would authorize the department to impose a civil penalty administratively on a producer that is in violation of the bill. The bill would establish the Marine Plastic Pollution Penalty Subaccount in the Integrated Waste Management Fund, and would require the collected civil penalties to be deposited in the Marine Plastic Pollution Penalty Subaccount for expenditure by the department, upon appropriation by the Legislature, to cover the department's costs to enforce the bill.

The bill would authorize a producer, in lieu of submitting a marine plastic pollution reduction plan to the department, to voluntarily elect to pay an alternative compliance fee to the department, which the department would be required to set in a specified amount. The department would be required to deposit the alternative compliance fees in the Marine Plastic Pollution Fund, which the bill would establish in the State Treasury. The department would be authorized to expend the moneys in the fund, upon appropriation by the Legislature, in a specified manner, for innovative product design for the covered item and for recovery, collection, and recycling programs to prevent the marine plastic pollution caused by the covered item.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 20.5 (commencing with Section 42985)*
2 *is added to Part 3 of Division 30 of the Public Resources Code,*
3 *to read:*

4
5 *CHAPTER 20.5. MARINE PLASTIC POLLUTION*

6
7 *Article 1. Definitions*

8
9 42985. *For purposes of this chapter, the following terms have*
10 *the following meanings:*

- 11 (a) *“Council” means the Ocean Protection Council.*
12 (b) *“Covered item” means a source of marine plastic pollution*
13 *listed by the department pursuant to Section 42985.2.*
14 (c) *“Marine plastic pollution” means plastic that is found in*
15 *rivers, streams, riparian habitats, beaches, and the marine*
16 *environment.*
17 (d) *“Producer” means one of the following:*
18 (1) *A person that manufactures a covered item and sells, offers*
19 *for sale, distributes, or uses that covered item in a commercial*
20 *enterprise under the person’s own brand.*
21 (2) *If there is no person that meets the conditions of paragraph*
22 *(1) with regard to that covered item, the producer is the owner or*
23 *licensee of a trademark under which the covered item is sold,*
24 *distributed, or used in a commercial enterprise in the state, whether*
25 *or not the trademark is registered.*
26 (3) *If there is no person that meets the conditions of paragraphs*
27 *(1) or (2) with regard to that covered item, the producer is the*
28 *person that imports the covered item into the state for sale,*
29 *distribution, or use in a commercial enterprise.*

30
31 *Article 2. Covered Items*

- 32
33 42985.1. (a) *On or before June 1, 2014, the department, in*
34 *coordination with the council and the state water board, shall*
35 *adopt regulations for the implementation of this chapter.*
36 (b) *The regulations shall include, but are not limited to,*
37 *procedures for the identification and listing of categories of*
38 *covered items, requirements for the contents, review, and approval*

1 of marine plastic pollution reduction plans submitted pursuant to
2 Article 3 (commencing with Section 42985.5), and procedures for
3 the calculation of the amount and collection of the alternative
4 compliance fee specified in Article 4 (commencing with Section
5 42985.8).

6 (c) (1) The regulations shall establish marine plastic pollution
7 reduction targets for a producer of a covered item to achieve in
8 implementing a marine plastic pollution reduction plan.

9 (2) In establishing those targets, the department shall determine
10 the proportion of pollution reduction of a covered item in the state
11 that each producer is required to achieve based, in part, on the
12 producer's total sales of the covered item in the state.

13 (3) In setting the reduction targets, the department shall use as
14 its goals an overall reduction in the amount of marine plastic
15 pollution from land-based sources by 75 percent in the year 2020
16 and 95 percent by 2025, as compared to the amount on June 1,
17 2014.

18 42985.2. (a) On or before July 1, 2014, the department shall,
19 in consultation with the council and the state water board, adopt
20 a list that specifies those items, or categories of items, that the
21 department finds are the major sources of marine plastic pollution
22 in the state. An item that is listed pursuant to this section is a
23 covered item for purposes of this chapter.

24 (b) The department shall adopt the list specified in subdivision
25 (a) using the best data that is available as of July 1, 2014, and is
26 not required to conduct any additional studies or research for
27 purposes of adopting that list.

28 (c) The department may exclude an item from the list adopted
29 pursuant to this section if the department determines the item is
30 subject to effective marine plastic pollution prevention policies.

31 (d) The department may revise the list adopted pursuant to
32 subdivision (a) as additional studies or research are made
33 available to the department.

34 42985.3. The department shall notify the producer of a covered
35 item listed pursuant to Section 42985.2 in accordance with the
36 regulations adopted by the department.

Article 3. Marine Plastic Pollution Reduction Plan

42985.5. Except as provided in Article 4 (commencing with Section 42985.8), no later than six months after receiving a notification pursuant to Section 42985.3, the producer of that covered item shall design and submit to the department a plan to reduce the marine plastic pollution caused by that covered item, which shall include both of the following:

(a) Measures to meet the producer's marine plastic pollution reduction targets, as calculated pursuant to the regulations adopted pursuant to Section 42985.1, which shall include utilization of innovative product design, the recovery, collection, or recycling of the covered item, or any one or combination of these measures.

(b) Measures for monitoring and reporting on the progress made towards the marine plastic pollution reduction targets specified in the regulations.

42985.6. (a) The department, in consultation with the council and the state water board, shall review the marine plastic pollution reduction plan required to be prepared pursuant to Section 42985.5 and shall determine if it is complete. If the department determines the plan is complete, the plan shall be deemed approved by the department. If the department determines the plan is not complete, the department may require the marine plastic pollution reduction plan to be revised, pursuant to the regulations adopted by the department.

(b) The department shall recover the cost of reviewing and approving the marine plastic pollution reduction plan by requiring a producer to pay a fee to the department. The department shall set the fee in an amount equivalent to the department's costs of implementing this chapter, with regard to that producer.

(c) The Marine Plastic Pollution Prevention Subaccount is hereby established in the Integrated Waste Management Fund. The department shall deposit the fees collected pursuant to this section into the Marine Plastic Pollution Prevention Subaccount and may expend those fees, upon appropriation by the Legislature, to cover the department's costs to implement this chapter.

(d) The department shall periodically review the progress of a producer in implementing, and meeting the targets specified in, the producer's marine plastic pollution reduction plan.

1 42985.7. (a) A civil penalty of up to the following amounts
2 may be administratively imposed by the department on a producer
3 who is in violation of this chapter:

4 (1) One thousand dollars (\$1,000) per day.

5 (2) Ten thousand dollars (\$10,000) per day if the violation is
6 intentional, knowing, or negligent.

7 (b) The Marine Plastic Pollution Penalty Subaccount is hereby
8 established in the Integrated Waste Management Fund.

9 (c) All civil penalties collected pursuant to this chapter shall
10 be deposited in the Marine Plastic Pollution Penalty Subaccount
11 and may be expended by the department, upon appropriation by
12 the Legislature, to cover the department's costs to enforce this
13 chapter.

14
15 Article 4. Alternative Compliance Program

16
17 42985.8. (a) In lieu of submitting a marine plastic pollution
18 reduction plan to the department pursuant to Article 3
19 (commencing with Section 42985.5), a producer may voluntarily
20 elect to pay an alternative compliance fee to the department.

21 (b) The department shall set the amount of the alternative
22 compliance fee in the regulations adopted pursuant to Section
23 42985.2, which shall be no greater than the amount that the
24 producer would expend in complying with the requirements of
25 Article 3 (commencing with Section 42985.5).

26 (c) The department shall deposit the alternative compliance
27 fees in the Marine Plastic Pollution Fund, which is hereby
28 established in the State Treasury. The department may expend the
29 moneys in the fund, upon appropriation by the Legislature, for
30 both of the following purposes, in the manner specified in
31 subdivision (d):

32 (1) Innovative product design for the covered item.

33 (2) Recovery, collection, and recycling programs to prevent
34 marine plastic pollution caused by the covered item.

35 (d) The department may expend the funds in the Marine Plastic
36 Pollution Fund by directly expending those funds, by transferring
37 those funds to other state agencies, or by providing grants to local
38 governments or other entities deemed eligible by the department,
39 including, but not limited to, nongovernmental organizations and
40 conservation corps.

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) The health of California's ocean and coastline is increasingly~~
4 ~~threatened by the persistent influx of plastic pollution on our shores~~
5 ~~and into our ocean. Plastic marine pollution is hurting California's~~
6 ~~environment and economy.~~

7 ~~(b) The vast majority of litter in California's coast and ocean~~
8 ~~comes from land-based sources, and it is well documented from~~
9 ~~more than 25 years of coastal cleanup data that up to 80 percent~~
10 ~~of this litter is plastic.~~

11 ~~(c) A 2012 study by the Convention on Biological Diversity~~
12 ~~found that 663 marine species have been impacted by marine litter~~
13 ~~through entanglement and ingestion, which is a two-thirds increase~~
14 ~~in species from a similar study in 1998.~~

15 ~~(d) In 2012, Region 9 of the federal Environmental Protection~~
16 ~~Agency estimated California's coastal cities and counties spend~~
17 ~~more than four hundred eighteen million dollars (\$418,000,000)~~
18 ~~each year to combat litter and curtail marine debris.~~

19 ~~(e) The global production and consumption of plastic, especially~~
20 ~~single-use plastic products, is on the rise.~~

21 ~~(f) Existing federal and state laws designed to combat marine~~
22 ~~litter are failing to keep plastic pollution from entering the ocean~~
23 ~~and harming marine wildlife and coastal economies.~~

24 ~~(g) Of the many plastic materials that pollute the ocean,~~
25 ~~single-use plastic items are some of the worst offenders. While~~
26 ~~used briefly on land, these items contain plastic that persists~~
27 ~~indefinitely in the marine environment.~~

28 ~~(h) A new approach is needed in California to reduce the impacts~~
29 ~~of single-use plastic products on California's environment and~~
30 ~~economy.~~

31 ~~SEC. 2. It is the intent of the Legislature to enact legislation~~
32 ~~that would create the Plastic Pollution Reduction Producer~~
33 ~~Responsibility Act to do all of the following:~~

34 ~~(a) Protect California's coasts and oceans by significantly~~
35 ~~reducing plastic pollution in the marine environment and requiring~~
36 ~~producers of those products to be financially responsible for the~~
37 ~~reduction.~~

38 ~~(b) Reduce the financial burden on local governments, taxpayers,~~
39 ~~and California regional water quality control boards in~~

- 1 implementing key marine plastic pollution prevention infrastructure
- 2 and activities:
- 3 (e) ~~Support California's economy by shifting the financial~~
- 4 ~~burden to those responsible for marine plastic pollution and by~~
- 5 ~~providing resources for local infrastructure projects.~~
- 6 (d) ~~Conduct ongoing monitoring to show measurable reduction~~
- 7 ~~of plastic pollution in the marine environment and to better~~
- 8 ~~understand the sources, pathways, and impacts of marine plastic~~
- 9 ~~pollution.~~